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APPLICATION NO).	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/808,439		03/25/2004	Karl Rodemer	2004-0480	6971	
513	7590	12/15/2004		EXAMINER		
WENDEI 2033 K ST		, LIND & PONAC	SMITH, JULIE KNECHT			
SUITE 80		IN. W.		ART UNIT	PAPER NUMBER	
WASHING	GTON,	DC 20006-1021		3682		
				DATE MAILED: 12/15/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No. Applicant(s) Ap				N				
Examiner Julie K Smith 3882 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CPR 1.136(n). In no event, however, may a triply be timely filled Elit in period for reply is goedlied above, the maniform claidetory parted will apply and will capital thirty (30) says will be contained within the statutory mineral being 150 (s) MONTH (5) FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the provisions of 37 CPR 1.136(n), in no event, however, may a triply be timely filled Elit to period for reply is goedlied above, the maniform claidetory parted will apply and will capital thirty from the realing date of 150 (s) 40, 5 (s) 43.3. Any reply received by the Office interes the normal material and period term adaptament. See 37 CPR 1.704(b). This action is FINAL. 1) ■ Responsive to communication(s) filed on 25 March 2004. 2a) □ This action is FINAL. 2b) □ This action is non-final. 3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) □ Claim(s) 1-23 is/are pending in the application. 4a) Of the above claim(s) 1 is/are withdrawn from consideration. 5) □ Claim(s) 1 is/are allowed. 5) □ Claim(s) 1 is/are allowed. 6) □ Claim(s) 1 is/are allowed. 6) □ Claim(s) 1 is/are objected to. 8) □ The specification is objected to by the Examiner. Application Papers 9) □ The specification is objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be beld in abeyance. See 37 CPR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CPR 1.85(a). 11) □ The oath or decl		Application No.	Applicant(s)					
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Application/Control Number: 10/808,439

Art Unit: 3682

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-23 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 6,742,625.

Although the conflicting claims are not identical, they are not patentably distinct from each other because they are obvious variations in breadth and scope.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Smith whose telephone number is 703-305-3948. The examiner can normally be reached on Monday-Friday, 8-5:30, (Every other Friday off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on 703-308-3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jks

December 6, 2004

WILLIAM C. JOYCE